

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of SA, Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

SHEMEKA MICHELLE REED,

Respondent-Appellant.

UNPUBLISHED

May 27, 2003

No. 241712

Wayne Circuit Court

Family Division

LC No. 91-296673

Before: Whitbeck, C.J., and White and Donofrio, JJ.

PER CURIAM.

Respondent-appellant Michelle Reed appeals as of right from the trial court order terminating her parental rights to her minor child SA pursuant to MCL 712A.19b(3)(i) and (l). We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

I. Basic Facts And Procedural History

In December of 2001, Reed brought SA into Detroit Riverview Hospital advising that she gave birth at home and wanted to obtain a birth certificate for the child. Pursuant to hospital procedure and to ensure that Reed actually gave birth to the infant that she presented, both mother and child would have to submit to an examination, otherwise a birth certificate could not issue. An examining physician would check for evidence of a recent vaginal delivery by checking the position of the uterus as well as examining the woman's breasts. According to Norma Carter-Jones, a registered nurse at Riverview Pediatric Clinic, Reed refused to submit to a physical examination. The physician at the clinic, however, examined the infant.

Carter-Jones also asked Reed whether she had prenatal care. Reed advised that she did receive some prenatal care, but advised further that "she had not seen a doctor in awhile." Reed stated that she had eight other children and further gave Carter-Jones the impression that she had these children in her care and custody. After two days of questioning and attempting to get records to establish that Reed was the infant's mother, Carter-Jones' supervisor suggested that Carter-Jones notify protective services.

George Dwelley was the protective services worker assigned to investigate the referral. Dwelley testified that he became aware that Reed delivered a child at home and that hospital personnel became concerned when she entered the hospital seeking to obtain a birth certificate

for the child but evaded questions regarding her history as well as the history of her eight other children. Dwelley indicated that, upon receiving the referral, he conducted a field investigation but was never able to interview Reed. On December 26, 2001, after two unsuccessful attempts, police served Reed with a writ of apprehension, took physical custody of the infant, and placed her into foster care.

One day after placing the child in foster care, Dwelley filed a petition alleging that Reed brought the infant into Detroit Riverview Hospital claiming that she gave birth and wanted a birth certificate. The petition further alleged that Reed refused hospital personnel's request that she submit to an examination but allowed the infant to receive a series of vaccinations. Further, Reed refused to submit to an interview; refused to furnish the name of the infant's putative father; and failed to provide proof of prenatal care, adequate housing, income or sufficient provisions to care for the infant. In addition, the petition contained allegations that Reed had a history of mental illness and that she was diagnosed as a schizophrenic but refused to take the medication prescribed to control the condition. Further, because of her mental illness, Reed had involuntary mental health commitments in the past.

The petition also contained allegations pertaining to Reed's extensive criminal history involving felony convictions for arson and uttering and publishing. According to the petition, Reed had a history of domestic violence and was a party to two personal protection proceedings. The petition also alleged that Reed had a longstanding history with Protective Services. According to the petition, in June of 1996, a Wayne County court terminated Reed's parental rights to six of SA's siblings because of "abuse, neglect, failure to protect, mental illness, inability to provide proper care and failure to comply with the court ordered treatment plans." Again according to the petition, as of December 27, 2001, Reed's other two children were removed from her care and placed into protective custody. The petition stated that because Reed failed to comply with the parent agency agreement relative to these two children, the FIA was in the process of filing a permanent custody petition.

In addition, according to the petition, Reed did not provide any information concerning SA's father. The petition alleged that his identity and whereabouts are "unknown and unascertainable." Moreover, the petition stated, SA's father did not acknowledge paternity, did not visit, provide support, or otherwise offer a home for the child. Given these conditions, the petition alleged that neither parent demonstrated the wherewithal to properly care for SA. Consequently, the FIA alleged that if returned to either parent, the child would be at severe risk of harm. The FIA thus requested that the court terminate Reed's parental rights pursuant to MCL 712A.19b(3)(i) (parental rights to one or more siblings of the child have been terminated because of neglect and prior attempts to rehabilitate failed), (j) (based on the conduct or capacity of the parent, there is a reasonable likelihood that the child would be harmed if returned to the parent's care and custody), and (l) (the parent's rights to another child were terminated in proceedings brought under section 2(b)). The FIA therefore requested the court to review the allegations, authorize the petition and terminate Reed's parental rights.

At a hearing held in December of 2001, the referee authorized the petition and placed the child within the care of the FIA. In January of 2002, Dwelley filed an amended petition, which contained the additional allegation that, when taken into custody by the FIA, the child had "severely reddened and raw skin in the folds between both thighs and her vaginal area," as well as "an unexplained, healed scar from a diagonal laceration across the top of her left foot."

Further, the FIA claimed that the “umbilical cord area was totally healed and clean,” thus suggesting that the child was older than Reed had initially represented.

In January of 2002, the trial court held a pretrial hearing in the matter. Reed did not appear for the proceedings. Further, because Dwelley did not appear, the trial court scheduled the permanent custody trial for April 18, 2002. At that trial, Norma Carter-Jones, a registered nurse with Riverview Pediatric, was the first witness to offer testimony. Carter-Jones explained that Reed came to the hospital with the child to obtain a birth certificate. However, before Reed could obtain a birth certificate, as noted above, she had to submit to a physical examination to determine if she recently gave birth and thus provide a link between her and the child. Further, Carter-Jones testified that, when questioned about other children, Reed was “somewhat defensive” but nevertheless admitted that she had eight other children. However, Reed gave Carter-Jones the impression that all of her other children were in her care and custody. Carter-Jones also testified that a physician examined the baby on December 17, 2001, and found nothing remarkable. According to Carter-Jones, the baby was clean and had a barrette attached to the remainder of the umbilical cord.

Dwelley then testified and stated that on December 18, 2001, he received a referral that Reed came to Riverview Hospital seeking a birth certificate for a child that she claimed to have given birth to at home. Dwelley explained that the hospital had reservations because Reed was “evasive” about her personal history especially with regard to the whereabouts and status of her eight other children. Dwelley stated that he attempted to conduct a field investigation but was not able to interview Reed. Dwelley testified that, because his attempt to interview Reed failed, he could not obtain any information about the child’s father. Accordingly, the designation “John Doe” represented the child’s father in the petition.

Dwelley testified that on December 26, 2001, he accompanied the police as they served Reed with a writ of apprehension and simultaneously took custody of the child. According to Dwelley, the caretaker of the apartment building where Reed lived did not have a master key that would open her apartment because, apparently, Reed changed the locks. Moreover, the caretaker advised that Reed was not a legitimate tenant as she had not paid any rent for over one year. To serve and execute the writ, the police secured a court order allowing them to use a ram bar to forcibly enter the residence and take the child into custody because Reed refused to open the door. Dwelley testified that the baby appeared to be healthy but, after observing her, Dwelley did notice “an extensive amount of reddening, blistering of the skin between her thighs and vaginal area.” Following Dwelley’s testimony, counsel for the FIA introduced two orders dated March 15, 2000, and March 26, 2001, terminating Reed’s parental rights to four of her other children. The trial court admitted the orders into evidence without objection.

Reed then testified and stated that she gave birth to SA on December 16, 2001, in her home. Reed did not receive prenatal care but was hospitalized at Riverview on December 1, 2001, because of false labor pains. At this time, the hospital took all of her blood work and sent it to Riverview Pediatric, the outpatient clinic, located across the street from the hospital. According to Reed, she presented at Riverview Pediatric to receive prenatal care but the doctor was not in. Reed testified that she continued to take vitamins on her own.

On cross-examination, Reed stated that she did not receive prenatal care partially because she had not left her residence since the September 11 terrorist attacks. Although Reed admitted

that she was hospitalized in a psychiatric hospital for forty-eight hours for observation, she refused to admit that she was diagnosed as a schizophrenic. On that point, Reed testified, “[a]s of the psychological evaluation, that’s what they said, [that she was schizophrenic] but I don’t think so. I just hold the truth.”

Reed also testified that she was hospitalized because she was seven months pregnant and she witnessed the father of two of her children jump out of a window. She stated that she was “traumatized” by the incident. Reed then testified that when the police came on the scene, one of the officers “pulled his gun on me, called me a black B, [and said] that he would blow my brains out.” Thereafter, according to Reed, the officer advised her to go home and forget the incident, to which she replied “whatever you please” and then “tied a cord around my neck [and told the officer] that I’ll take my own life.” As a result of her statement to the officer, according to Reed, she ended up in a psychiatric hospital for forty-eight hours for observation.

Additionally, Reed testified that she suddenly went into labor on December 16, 2001. She stated that at the onset of labor, she could not breathe, scream, or otherwise call for help. In Reed’s words:

I ended up hiking into my room, like the footballers hike the ball, and I couldn’t scream at all, and the only thing I did was, I was able to make it to my room and my legs went out of place, like those people that be in the circus. So evidently my legs popped out of place for a minute and the labor just started . . .

After graphically describing the birth, Reed stated that she clipped the umbilical cord and pinched it with a barrette from her hair. She testified that a few hours after the birth, she phoned her parents, and they came and transported her to Riverview Hospital.

Once at the hospital, according to Reed, she admitted to hospital personnel that she had eight other children, but did not otherwise intimate that those children were in her care or custody. Contrary to Carter-Jones’ testimony, Reed stated that she consented to a physical examination and allowed hospital personnel to draw blood from the baby and administer vaccines. Reed said that she also informed hospital personnel that she was hospitalized on December 1, 2001, and that she had her blood drawn at that time. After she took the baby home from the hospital, according to Reed, she fed the baby and ensured that she had clothes. Further, Reed testified that she had furniture, diapers, food, and shelter. However, she admitted that, when she brought the baby home, she did not have lights or gas but she secured these services through “a cord running from the outside.” Additionally, Reed stated that, “as the baby grew within [her] womb,” she received money from the FIA, which she used to purchase diapers, bottles, a bassinet and “everything else.” She stated that she also received \$89 per month in food stamps. According to Reed, “everything was prepared” for the baby’s arrival.

On cross-examination, Reed admitted that she had a criminal history, including several felony convictions. She testified that she committed two felony arsons and felony welfare fraud. Further, she admitted to incidents of domestic violence and uttering and publishing. Moreover, she testified that, out of twelve total pregnancies, she had nine children living, that none of these children were in her custody and care, and that her parental rights to those children were previously terminated.

After considering the testimony and evidence presented, the trial court determined that Reed had a duty to provide a nurturing environment for her child, which was not discharged by illegally occupying premises without utilities. The trial court observed that Reed's parental rights to four of her youngest children were recently terminated because of pervasive neglect. The trial court found that it had jurisdiction over the child and terminated Reed's parental rights under MCL 712A.19b(3)(i) and (l). Reed appeals of right the trial court's decision.

II. Standard Of Review

This Court reviews a trial court's decision to terminate parental rights for clear error.¹ If the trial court determines that petitioner established the existence of one or more statutory grounds for termination by clear and convincing evidence, then the trial court must terminate respondent's parental rights unless it determines that to do so is clearly not in the child's best interests.² We review for clear error the trial court's decision with regard to the child's best interests.³

III. Clear And Convincing Evidence

After reviewing the record brought before us for review, we are satisfied that the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence.⁴ Testimony and evidence presented at trial demonstrated that Reed's parental rights to eight of SA's siblings were previously terminated and that she failed to complete the court ordered treatment plans to reunite with her children. Thus, we find that the trial court did not clearly err in terminating Reed's parental rights on the authority of MCL 712A.19b(3)(i) and (l).

IV. Best Interests Of The Child

The evidence produced did not demonstrate that termination of Reed's parental rights was contrary to the child's best interests. Although Reed seemed to have provided adequately for the infant, she failed to acknowledge her mental health problems and did not have an adequate residence. Accordingly, the trial court did not err in terminating Reed's parental rights to her minor child and we thus affirm the trial court's decision in every respect.

Affirmed.

/s/ William C. Whitbeck

/s/ Helene N. White

/s/ Pat M. Donofrio

¹ MCR 5.974(I); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

² MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 353-354; 612 NW2d 407 (2000).

³ *Id.* at 356-357.

⁴ MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).